IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3619 of 2006
with
SPECIAL CIVIL APPLICATION No. 20830 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NANALAL MAFATLAL DAGLA - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR VD PARGHI for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 16/06/2006

COMMON ORAL JUDGMENT

1. Rule. Mr.Mengdey, learned AGP waives service of

rule for respondents in Special Civil Application No.3619 of 2006 and also for respondent Nos.1 and 2 in Special Civil Application No.20830 of 2005 and Mr.Parghi, learned Counsel appearing for the petitioner of SCA No.3619 of 2006 submits that as Respondent No.3 of SCA No.20830/2005 has preferred a separate petition, he can appear but no formal notice of Rule is required and, therefore, the matter is further heard today.

2. Upon hearing the learned Counsel appearing for the parties, it appears that there is no dispute on the aspect that the concerned persons, including the petitioners herein against whom the orders have been passed were not given any opportunity of hearing. Mr.Mengdey, learned AGP is not in a position to show any authenticated record showing that any opportunity of hearing was given.

3. Therefore, the impugned orders cannot be sustained in the eye of law since the same are in breach of principles of natural justice.

4. Mr.Mengdey, learned AGP submitted that the fresh

show-cause notice shall be issued by the Deputy Collector and after giving opportunity of hearing to the concerned parties, including the petitioners herein, the matter will be considered and order shall be passed.

5. Even if the order is quashed on the ground of principles of natural justice, it is always open to the authority to issue a fresh show-cause notice and to follow the principles of natural justice and to pass order, in accordance with law.

6. Mr.Parghi as well as Mr.Acharya, learned Counsel appearing for the petitioners are also agreeable to cooperate with the hearing in case fresh show-cause notice is given.

7. Under the above circumstances, the impugned order passed by the Deputy Collector is quashed and set aside with the further observations that it would be open to the Deputy Collector to issue a fresh show-cause notice on the alleged ground for resumption of the land and after giving opportunity of hearing to the affected parties, including the petitioners herein, the

matter will be considered independently and he shall pass the order afresh in accordance with law.

8. Rule made absolute accordingly to the aforesaid extent. Considering the facts and circumstances there shall be no order as to cost.

16.6.2006 **(Jayant Patel, J.)**

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